

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Spectrum Policy Task Force Report ) ET Docket No. 02-135

COMMENTS  
OF THE  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> hereby submits these comments in the above referenced matter. NTCA's initial comments on the Spectrum Policy Task Force Report are limited to portions of the report relating to rural access to spectrum.

**I. INTRODUCTION**

As a threshold matter, NTCA is pleased that the Task Force specifically recommend that the Commission explore ways to promote spectrum access and flexibility in rural areas. The Commission has an obligation under Section 309(j) of the Act to ensure that people living in rural areas have access to spectrum based services and that certain designated entities, including specifically rural telephone companies, are given an opportunity to participate in the provision of spectrum-based services. While

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<sup>1</sup> NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 560 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). All of NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

the rural issues are being examined in depth in another Commission Notice of Inquiry,<sup>2</sup> it is imperative that the Commission include rural concerns and issues in its overall spectrum policy, and not as an afterthought.

## **II. NATIONAL SPECTRUM POLICY SHOULD INCLUDE A PRESUMPTION THAT SMALLER LICENSE TERRITORIES BEST SERVE THE NEEDS OF RURAL AMERICA**

The Task Force recommends that, when licensing by geographic area, the Commission should consider the impact of its rules on access to rural spectrum.<sup>3</sup> It states, “[I]t may be appropriate to use licensing areas that distinguish between rural and urban areas so that rural interests can more readily acquire spectrum in the areas they serve.”<sup>4</sup> The Task Force did not, however, make any recommendations regarding the size of geographic areas. NTCA submits that national spectrum policy should include a provision whereby when more than one block of spectrum is being made available in any auction, there should be a presumption that a portion of the spectrum will be licensed according to small geographic areas, such as MSAs and RSAs.

The reasons behind such a policy are simple. Small license territories are more affordable than large. If small carriers with ties to rural communities can afford spectrum, they will provide spectrum-based service to the rural consumers.

All NTCA members are headquartered in the locality where they provide service and have strong ties to the community. In most rural communities, the rural telephone company is the largest or one of the largest businesses in town. The rural telcos’

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<sup>2</sup> In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, *Notice of Inquiry*, WT Docket No. 02-381, FCC 02-325 (rel. December 20, 2002).

<sup>3</sup> Task Force Report, p. 60.

<sup>4</sup> *Id.*

prosperity is tied to the community's prosperity and future. Rural telcos are motivated not only by the bottom line, but also by a civic duty to ensure the viability of their community as this country moves toward a wireless future.

It is more expensive for telecommunications providers to serve rural areas than urban areas. Fewer subscribers and lower subscriber density translates into higher costs. Also, certain regions of the nation suffer from unforgiving terrain. These are service obstacles that have proven insurmountable for the large carriers. Rural telephone companies exist because the large carriers were unwilling or unable to serve their communities. The economics of serving rural communities have not changed.

Driven solely by profit, large carriers and smaller carriers without ties to rural communities understandably concentrate their build out efforts on the more profitable urban areas. They must recoup their investment and answer to their stockholders. Rural telephone companies, in contrast, must answer to their communities.

Rural telephone companies simply cannot afford to compete in auctions that license spectrum according to large geographic territories. They lack the resources of large companies interested in serving the urban territory. Rural areas will only achieve the level of service of urban areas if small carriers are given the opportunity to compete at auction by bidding on small geographic territories.

The Task Force states that in certain instances, "larger spectrum areas may be beneficial to rural interests by allowing licensees to take advantage of economies of scale or scope based on regional or nationwide footprints."<sup>5</sup> If true, in such instances

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<sup>5</sup> Task Force Report, p. 60. It is worth noting that scant portions of rural territory are currently served under so-called "national" footprints.

spectrum policy should dictate that there be a specific finding that larger geographic areas will better serve rural areas and the Order adopting the larger geographic areas should sufficiently explain why large areas are more consistent with the objectives of 309(j).

### **III. MEANINGFUL SECONDARY MARKET OPPORTUNITIES FOR RURAL CARRIERS SHOULD BE EXPLORED**

The Commission currently relies on its partitioning and disaggregation rules as an opportunity for small and rural carriers to obtain unused spectrum in secondary markets. While the rules may be a useful tool in overall rural spectrum policy, they are not the rural answer. As written, the rules provide no incentive for large carriers to part with any portion of their spectrum or geographic service area, even if unused. Lenient build out requirements permit large carriers to hoard unused spectrum for a variety of legitimate business reasons. Carriers may be unwilling to part with spectrum or territory due to anticipated future needs. Also, the license is more valuable in a future sale if it remains intact. Small, rural carriers are not in a negotiating position to convince large carriers to break up their licenses.

The Commission is considering other secondary market opportunities as a possible rural solution. Spectrum leasing may be another tool, but without rules to force large carriers to negotiate with rural carriers, the tool will lack utility. Similar to the problems with partitioning and disaggregation, large carriers may be unwilling to part with spectrum, even temporarily.

National spectrum policy must contain a provision that forces large carriers to give up rights to unused spectrum.<sup>6</sup> Build out requirements that force carriers with geographic licenses covering rural areas to use the spectrum or lose it, will encourage large carriers to negotiate with the small carriers genuinely interested in serving rural territory.<sup>7</sup>

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<sup>6</sup> NTCA believes that even with meaningful secondary market opportunities, rural areas will thrive only if rural carriers are also provided primary market opportunities (*i.e.*, the opportunity to participate in spectrum auctions).

<sup>7</sup> NTCA is intrigued by the idea of government granted easements, but the report lacks sufficient information about how such a policy would be implemented for NTCA to provide useful comment.

#### IV. CONCLUSION

It is imperative that national spectrum policy includes provisions specifically tailored to the rural needs and desires. The Commission must recognize that small providers with ties to the local communities are most likely to provide coverage to sparsely populated areas. The use of small license territories will put spectrum into the hands of those carriers most likely to provide wireless service to rural areas and should be part of the overall spectrum policy. The Commission should also aggressively pursue creating secondary market opportunities for small carriers. Large carriers should be forced to part with unused spectrum covering rural territory.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS  
COOPERATIVE ASSOCIATION

By: /s/ L. Marie Guillory  
L. Marie Guillory

By: /s/ Jill Canfield  
Jill Canfield

Its Attorneys

4121 Wilson Boulevard, 10<sup>th</sup> Floor  
Arlington, VA 22203  
(703) 351-2000

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## CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CC Docket No. 02-135, FCC 02-322 was served on this 27th day of January 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy  
Gail Malloy

Chairman Michael Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B201  
Washington, D.C. 20554

Commissioner Kathleen Q. Abernathy  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B115  
Washington, D.C. 20554

Commissioner Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A-204  
Washington, D.C. 20554

Commissioner Michael J. Copps  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A302  
Washington, D.C. 20554

Qualex International Portals II  
445 12th Street, SW  
Room CY-B402  
Washington, D.C. 20554

Commissioner Jonathan Adelstein  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-C302  
Washington, D.C. 20554

